

REMARKS

Applicants have reviewed and considered the Office Action dated October 31, 2007, and the references cited therein. In the Office Action, the Examiner imposed a restriction requirement, identifying two inventions. Additionally, the Examiner rejected claims 40-44 and 46-48 under 35 U.S.C. § 102(b) and claim 45 under 35 U.S.C. § 103(a). In response thereto, claims 40, 43, and 45-46 have been amended and claims 42 and 44 have been cancelled. In view of the amendments and the following remarks, Applicants request reconsideration and allowance of the pending claims.

Response to Restriction

The Examiner required restriction to one of the following inventions:

- I – Claims 13-39, drawn to an injecting device;
- II - Claims 40-48, drawn to a method of injecting

In response, Applicants elected, and hereby confirm the election of, Invention II (Claims 40-48), without traverse.

Claim Rejections Under 35 USC 102(b)

Claims 40-44 and 46-48 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent 5,788,673 (Young).

Independent Claim 40 is Not Anticipated by Young

Claim 40 is directed to a method for administering an injectable product from a reservoir, the method comprising, in part, providing a first volume and a second volume, wherein the volumes are adapted to contain a fluid . . . wherein the first volume is decreased by urging a first piston against the first volume; and wherein the increasing second volume drives a second piston which causes the administration of injectable product from the reservoir.

Young discloses an apparatus for dispensing or infusing liquid medication to a patient in a controlled manner. *Young*, col. 2, ll. 34-34. The apparatus includes a spring 158 attached on an end to a drive component 152 such that the spring 158 biases the drive component 152 in the dispensing direction. *Young*, col. 6, ll. 37-45. To dispense medication, the spring 158 is allowed to expand

“which causes the drive component 152 to move forwardly in the tube 134 . . . thereby dispensing the medication.” *Young*, col. 6, ll. 22-34. To control, or dampen, the rate of expansion of spring 158, a piston member 156 is provided. *Young* explains:

As the spring 156 (sic) expands, as shown in FIG. 5, the rod 154 translates forwardly in the housing 121 which causes the piston member 156 to move forwardly relative to the cylinder 132 and pressurize the fluid medium 166 forward of the piston member 156. Since the passageway 172 is sealed by plate member 174, fluid medium 166 can pass from the second chamber 164 to the first chamber 162 only through the metering orifice provided by the tube 178. Fluid medium 166 cannot pass through the passageway 172 in the piston member 156 since the passageway 172 is sealed by the plate member 174 which is biased against the piston member 156 by the valve spring 176. In addition, pressure is applied to the front side of the plate member 174 by the fluid medium 166 which ensures that the plate member 174 remains seated against the piston member 156. The rod 154 provides an operative connection between the piston member 156 and the drive component 152, such that the rate of movement of the piston member 156 through the fluid medium 166 controls the rate of movement of the drive component 152, and correspondingly to the rate of movement of the syringe plunger 26. As can be appreciated, the viscosity of fluid medium 166, spring 158 and the size of the metering orifice provided by the tube 178 control the rate of movement of piston 156, and as such the delivery rate of the medication from syringe 22. *Young*, col. 8, l. 66 – col. 9, l. 22.

From the foregoing, it is observed that movement of fluid from the second chamber 164 to the first chamber 162 does not drive the drive component 152 nor the piston member 156, but rather, provides a damping effect by requiring fluid medium 166 to pass through metering orifice 178 in order for the biasing force of spring 158 to advance drive component 152 and piston member 156 in the dispensing direction. It is the biasing force of spring 158 alone which drives the drive component 152 and causes administration of the medication.

Accordingly, *Young* does not anticipate the invention of claim 40 at least because it does not disclose or suggest a method “wherein the increasing second volume drives a second piston

which causes the administration of injectable product from the reservoir.” Reconsideration and withdrawal of the rejection are requested.

Claims Depending from Claims 40 are Patentable

Claims 41, 43, and 45-48 depend directly from claim 40. Accordingly, these claims are also patentable for at least for the reasons presented above and, further, in view of their additional recitations. Reconsideration and allowance are thus respectfully requested.

Claim Rejections Under 35 USC 103 (a)

Claim 45 stand rejected under 35 USC 103(a) as unpatentable over Young in view of U.S. Patent 4,773,419 (Tountas).

Independent Claim 40 is Not Unpatentable Over Young in View of Tountas

As mentioned above, Young does not disclose the invention of claim 40 at least because it does not disclose “wherein the increasing second volume drives a second piston which causes the administration of injectable product from the reservoir.” Tountas does not remedy the disclosure deficiencies of Young. Tountas discloses an apparatus for applying circumferential pressure to an extremity to control blood flow to a distal portion of the extremity. *Tountas*, Abstract. Tountas does not disclose administration of an injectable product. Accordingly, neither Tountas nor Young, alone or in combination, disclose, teach or suggest a method “wherein the increasing second volume drives a second piston which causes the administration of injectable product from the reservoir,” as recited in claim 40. Claim 45 depends directly from claim 40. Therefore, claim 45 is patentable for at least the reasons presented above and, further, in view of its additional recitations. Reconsideration and allowance are thus respectfully requested.

Conclusion

This response is being submitted on or before April 30, 2008, and a request to extend the time to respond until that date is hereby made. The required fee should be charged to Deposit Account No. 04-1420. It is believed that no additional fees are due in connection with this filing. However, the Commissioner is authorized to charge any additional fees, including extension fees or other relief which may be required, or credit any overpayment and notify us of same, to Deposit Account No. 04-1420.

The application now stands in allowable form, and reconsideration and allowance are respectfully requested.

Respectfully submitted,

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